

REPRESENTATIONS AND CERTIFICATIONS (AUG 2006)

NOTICE: Whoever misrepresents the status of any concern or person as a small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern, in order to obtain for oneself or another any subcontract that is to be included as part of a goal contained in a subcontracting plan required pursuant to 15 U.S.C. 637 (d) shall: (A) be punished by a fine of not more than \$500,000 or by imprisonment for not more than 10 years, or both; (B) be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986; (C) be subject to suspension and debarment as specified in 48 CFR 9.4 on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract; and (D) be ineligible for participation in any program or activity conducted under the authority of the Small Business Act or the Small Business Investment Act of 1958 for a period not to exceed three years.

1. TAXPAYER IDENTIFICATION NUMBER (TIN). Offerors must submit the information required below. "Taxpayer Identification Number (TIN)" means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number. "Common parent" means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

TIN: _____

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal government;

Offeror is not owned or controlled by a common parent as defined above.

Name and TIN of common parent:

2. TYPE OF ORGANIZATION. The Offeror operates as _____ an individual, _____ a sole proprietorship, _____ a partnership, _____ a limited liability company, _____ a joint venture, _____ a nonprofit organization, _____ a professional corporation, or _____ other corporation incorporated in the State of _____.

3. SMALL BUSINESS. The Offeror represents that it _____ is, _____ is not a small business concern. "Small Business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR 121 and the size standard in the solicitation.

4. HUBZONE SMALL BUSINESS. The Offeror represents that it _____ is, _____ is not a HUBZone small business concern appearing, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126.

5. SMALL DISADVANTAGED BUSINESS. The Offeror represents that it _____ is, _____ is not, a small disadvantaged business concern. "Small disadvantaged business concern" means a small business concern that (i) has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, subpart B; (ii) No material change in disadvantaged ownership and control has occurred since its certification; (iii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and (iv) It is identified, on the date of this representation, as a certified small disadvantaged business concern in the Central Contractor Registration.

6. 8(a) PARTICIPANT. The Offeror represents that it _____ is, _____ is not, a Participant in the Small Business Administration's 8(a) Business Development Program. (See 13 CFR Part 124.)

7. WOMEN-OWNED SMALL BUSINESS. The Offeror represents that it _____ is, _____ is not, a women-owned small business concern. "Women-owned small business concern" means a small business concern that (i) is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and (ii) whose management and daily business operations are controlled by one or more women.

8. VETERAN OWNED SMALL BUSINESS. The Offeror represents that it _____ is, _____ is not, a veteran owned small business concern. "Veteran owned small business concern" means a small business concern (i) not less than 51 percent of which is owned

by one or more veterans [as defined at 38 U.S.C. 101(2)] or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more veterans; and (ii) whose management and daily business operations are controlled by one or more veterans.

9. SERVICE-DISABLED VETERAN OWNED SMALL BUSINESS. The Offeror represents that it is, is not, a service-disabled veteran owned small business concern. "Service-disabled veteran owned small business concern" means a small business concern (i) not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more service-disabled veterans; and (ii) the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent care-giver of such a veteran. "Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

10. ANTI-KICKBACK. By submission of this offer, the Offeror certifies that it has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback; and has not included, directly or indirectly, the amount of any kickback in the offer. "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kinds that is provided, directly or indirectly, to any prime contractor of the Government (e.g., the Company), prime contractor employee, subcontractor at any tier, or employee of a subcontractor at any tier, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Government prime contract or in connection with a subcontract at any tier relating to a Government prime contract.

11. PLACE OF PERFORMANCE (a) The Offeror, in the performance of any subcontract resulting from this solicitation, intends, does not intend, to use one or more plants or facilities located at a different address from the address of the Offeror as indicated in this offer.

(b) If the Offeror checks "intends" in paragraph (a) above, it shall insert in the following spaces the required information:

Place of performance (Street address, city, state, zip code):

Name and address of owner of plant or facility if other than Offeror:

12. BUY AMERICAN. *(Applicable if offer for supplies exceeds \$2500. Not applicable to construction subcontracts).* (a) The Offeror certifies that each end product except those listed in paragraph (b) of this provision is a domestic end product and that the Offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the "Buy American Act – Supplies" clause of the solicitation.

(b) Foreign end products:

Line Item No.

Country of Origin

(c) The Company will evaluate offers in accordance with the applicable policies and procedures of Part 25 of the Federal Acquisition Regulation.

13. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS. *(Applicable if offer exceeds \$10,000.)* The Offeror represents that --

(a) It has, has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation.

(b) It has filed all required compliance reports.

(c) It is not required by regulations of the Office of Federal Contract Compliance Programs at 41 CFR Part 60-1 to file compliance reports because --

It has fewer than 50 employees, or

It does not have a Government contract or first-tier subcontract of \$50,000 or more, or

It does not have a Government subcontract of \$50,000 or more below the first tier for construction work at the site of construction.

(d) It has not filed required compliance reports.

(e) It will obtain representations indicating submission of required compliance reports, signed by proposed subcontractors, before subcontract awards.

14. AFFIRMATIVE ACTION COMPLIANCE (*Applicable if offer exceeds \$10,000. Not applicable to construction.*) The Offeror represents that --

(a) It has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2).

(b) It has not been required to develop and maintain affirmative action programs because it has not had 50 or more employees and a Government contract or subcontract of \$50,000 or more. [NOTE: Offerors checking this block that have 50 or more employees are required by 41 CFR 60-2.1(c) to develop affirmative action programs within 120 days after award of a subcontract of \$50,000 or more resulting from this solicitation.]

(c) It has not developed and does not have on file at each establishment a required affirmative action program.

15. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (*Applicable if offer exceeds \$25,000.*)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that:

(i) The Offeror and/or any of its Principals:

(A) Are are not at present debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency:

(B) Have have not , within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(C) Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated is subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has has not , within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Company if, at any time prior to subcontract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

16. VETERANS' EMPLOYMENT REPORTING REQUIREMENTS. (*Applicable if offer exceeds \$100,000.*) By submission of its offer, the Offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (*i.e.*, if it has any contract or subcontract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

17. PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (*Applicable if offer exceeds \$100,000.*) (a) The definitions and prohibitions contained in the Limitation of Payments to Influence Certain Federal Transactions clause, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The Offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989 --

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any subcontract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Company; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails

to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

18. TOXIC CHEMICAL RELEASE REPORTING. *(Applicable if offer exceeds \$100,000.)* (a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for entering into any subcontract resulting from this solicitation.

(b) By signing this offer, the Offeror certifies that –

(1) As the owner or operator of facilities that will be used in the performance of this subcontract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the Offeror will file and continue to file for such facilities for the life of the subcontract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this subcontract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: *[Check each block that is applicable.]*

- (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;
- (ii) The facility does have ten or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A) h;
- (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
- (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:
 - Major group code 10 (except 1011, 1081, and 1094).
 - Major group code 12 (except 1241).
 - Major group codes 20 through 39.
 - Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).
 - Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or
- (v) The facility is not located in the United States or its outlying areas.

By signing below, the Offeror certifies, under penalty of law, that these representations are accurate, current, and complete.

Offeror: _____
(Insert Offeror's legal name.)

By: _____/
(Printed Name) (Signature)

Title: _____

Date: _____